IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO. 2940 OF 2002

Nanji Velji Satra .. Plaintiff

versus

M/s.Pac "X" & ors. .. Defendant

...

Mr.L.H. Rambhia for the plaintiff.

CORAM : D.G. KARNIK,J.

DATED : 21st February 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. None present for the defendant.

2. The plaintiff has filed this suit for recovery of the price of the goods sold and delivered to the defendant and interest thereon. The details of the goods sold, the bills and interest are given in Exhibit-P to the plaint. Copies of the bills/invoice

along with the copies of the lorry receipts are filed on record. The plaintiff has also filed on record the original "C" form given by the defendant to claim sales tax at the reduced rate. The annexure to the said "C" form discloses all the bills received by the defendant along with the goods.

3. The plaintiff has also filed on record the office copies of the two notices issued to the defendant along with the courier receipts.

4. At the hearing of the Summons for Judgement no.1022 of 2002, this Court granted a conditional leave to the defendant to defend the suit on condition that the defendant would deposit in this Court a sum of Rs.6,00,000/- within a period of eight weeks. The Court further ordered that on failure of the defendant to deposit the money, the plaintiff would be entitled to a judgement and decree as prayed. Despite this order, the defendant did not deposit the amount in the Court. The plaintiff has filed on record the certificate of non deposit dated 1st November 2004 issued by the Master and Asstt. Prothonotary.

5. In the circumstances, the plaintiff is entitled to a decree under clause (b) of Order 37 of Rule 3(6) of the Code of Civil Procedure. Hence, I pass the following order:

6. The suit of the plaintiff is decreed as follows:

7. The defendant shall pay to the plaintiff a sum of Rs.18,22,136/- together with interest on the principal sum of Rs.11,87,179/- at 9% p.a. from the date of the suit till payment and all costs of the suit.

8. Issue court fee refund certificate as per the rules.

D.G. KARNIK, J